


FILED

MAY 6 - 2016

IN THE UNITED STATES DISTRICT COURT
FOR THE
WESTERN DISTRICT OF TEXAS

CLERK U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS
BY  DEPUTY CLERK

FRANCISCO VILLARREAL,

Movant,

vs.

UNITED STATES OF AMERICA,

Respondent.

CRIMINAL ACTION NUMBER:

SA-12-CR-324(2)FB

PRO SE MOTION FOR MODIFIED SENTENCE UNDER TITLE 18 U.S.C. §3582
(C)(2), §1B1.10, §3553(a) AND RETROACTIVE AMENDMENT 782(drugs -two)

COMES NOW, Movant Villarreal, appearing in pro se capacity and files this Motion For A Modified Sentence for all of the reasons stated herein.

I. INTRODUCTORY STATEMENT

Movant Villarreal("Hereinafter Francisco Villarreal")has previously filed for a modified sentence and such relief was granted on May 4, 2015. This court reduced Villarreal's 118 month term to 94 months term. This current motion is filed for a further reduction of sentence.

II. REASON FOR GRANTING MOTION

Movant positions here, that this Court should grant Movant's Pro se motion for a modified sentence under §3582(c)(2), because it is possible for this court to further reduce Movant's recently modified sentence, upon Movant's additional requests. Movant believes that this court should reduce the 94 month term of imprisonment to 70 months term of imprisonment-as Movant has provided substantial assistance to the government in Movants' 'particular

case'. The facts of the case here, are under seal, but, however, some of the facts are present in the sentencing transcripts of this case. PLEASE NOTE: that Movant cannot access the sentencing transcripts per case manager Ms. Day at the Institution, A-4 Housing Unit-due to Movant's assistance to the government.

III. WAIVER PROVISION

This Honorable Court may reduce Movant's current 94 month sentence under Title 18 U.S.C. §3582(C)(2)-where Movant has not waived his right for a modified sentence.

IV. SECOND MOTION FOR RELIEF BASED UPON THE SAME RETROACTIVE 782 AMENDMENT

Movant files this second motion for a modified sentence in under the provisions of Amendment 782 and §3582(c)(2). Nothing in 18 U.S.C. §3582(c)(2) limits the number of motions a defendant may file. Nor does it preclude a motion for reconsideration. See: United States v. Beard, 745 F.3d 288,292(7th Cir. 2014) (finding nothing in 3582 that meets the 'stringent test' of a jurisdictional bar).

For these reasons the court should modify Francisco Villarr-eal's sentence.

V. TITLE 18 U.S.C. §3553(a)

Movant requests that this honorable court will give an explanation for any decision where Movant's positions are based on non-frivolous arguments. United States v. Douglas, 576 F.3d 1216, 1220(11th Cir. 2009)(record must show that court considered 3553(a)factors when ruling on motion; discussion of the factors by the parties may be adequate). Petitioner believes that to the extent of Movant's substantial assistance to the government in this case, this honorable court should consider that extent of assistance provided by Movant and take into account the future detriments that Movant has put himself in by providing such substantial assistance to the government and lower the current 94 month term as requested here, to a term consistent of 70 months, respectively. Movant believes that a sentence of 70 mo. after such considerations are made by this court would be a reasonable sentence under §3553(a).

VI. APPOINTMENT OF COUNSEL

Movant acknowledges that a 3582 motion is not considered an "ancillary matter" under the Criminal Justice Act, which would require continued representation following the initial appointment of counsel under 18 U.S.C. §3006(c)),but, Movant would request that if this honorable court deems it necessary to appoint counsel, that counsel be appointed for a more competent representation.

CONCLUSION

In conclusion, Francisco Villarreal should be granted Title 18 U.S.C. §3582(C)(2) relief for all of the reasons stated above.

Respectfully Submitted,

Francisco Villarreal
Francisco Villarreal
pro se

05/02/2016

FRANCISCO VILLARREAL

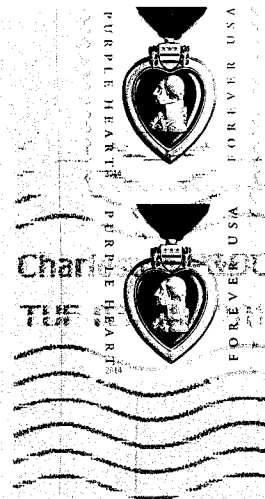
Reg. No. 12937-379

FCI McDowell

Federal Correctional Institution

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